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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,152	04/17/2001	Sara H. Basson	YOR9-2001-0066US1 (728-19	7352

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EXAMINER	
JARRETT, SCOTT L	

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/836,152	**Applicant(s)** BASSON ET AL.	
	Examiner Scott L. Jarrett	**Art Unit** 3623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-19.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Romain Jeanty
Primary Examiner
Art Unit 3623

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's amendments to Claim 19 overcome the rejection of claims 19. Claims 1-19 remain rejected using the same art and rationale as detailed in the Final Office Action mailed July 12, 2006.

As per Applicant's argument that the prior art of record does not expressly teach the determination step as recited in claim 1 (Remarks, Page 12), the examiner respectfully disagrees

Independent claim 1 essentially comprise the following steps: selecting a person to adapt the software product to from a list/person database; providing sample data of the person from a storage device (server, subsystem, etc.); accessing, by the adaptation module (system), the sample data associated with the person; and configuring (adapting/training) the software product to adapt to the person utilizing the adaptation module and the sample data.

These steps are patentably indistinguishable from nearly all automatic recognition systems including but not limited to speech/voice, face, and/or biometric recognition systems in which most recognition systems/software products implicitly and/or inherently require some degree of training, adaptation, and/or configuration for the specific people who will be utilizing the system for without such individual/personal adaptation the system would be unable to perform properly.

Further these essential steps, as applied to automatic speech recognition systems, are clearly anticipated by at least Dragon System's NaturallySpeaking product (Office Action mailed February 27, 2006 Pages 10-11 and 22-23) and Kahn, et al., U.S. Patent No. 6,122,614 in view of Kahn et al., U.S. Patent No. 6,704,709 (Office Action mailed Pages 6-9).

Further the recited method step of determining if a product/software product is an automatic speech recognition (ASR) product merely represents non-functional descriptive material as the method steps are unchanged/unaltered even in the case that the software product is determined to be an automatic speech recognition since the steps merely recite transcribing a verbal sample of data from the sample data which would be inherent and/or is an old and well known step for nearly any method/system for training/adaptation of an automatic recognition software product.

Further it is noted that the invention as claimed does not positively recite who or what is doing the determining step making it equally likely that a person using the software product or a computer implemented method/system determines if the software product is an automatic speech recognition product.

In the case that the person utilizing the software product determines if the product is an automatic speech recognition product the person/entity who selects/uses a product, for example the developer/distributor/manufacturer of the product, would inherently know the type of product (speech/voice recognition, image/face recognition, etc.) they had created and/or are using for without such knowledge it would be impossible to create, use, promote, advertise or market the product. It is implicit in a person's use of a software product that they recognize what type of software product they are using and what type of data is appropriate for the particular software product; for example one wouldn't try to use any data to train a voice recognition system (e.g. fingerprint data); the user would recognize that the software product is an automatic speech recognition product and utilize the appropriate person sample data such as recordings of the person to adapt/train the software product to the person.

If however the Applicant's intended to claim that a computer system/program itself, autonomously and/or automatically, determines if a software product is an automatic speech recognition product then the claims would read like a generic or multi-function module (component, helper, launcher application) system/software product that detects the type of program (e.g. by the programs name, filename, extension, registry, etc.) being run/launched or that it is "talking to" (connected to, communicating with, etc.) and adapts/configures itself to read/execute any of a plurality of programs/routines in response to that determination (e.g. a browser plug-in which causes a generic/multi-function browser to launch/run the appropriate helper application/program based on the plug-in type).

In summary it is implicit that that any software product having an adaptation module requires person sample data in order to train/adapt/configure the product for use by the person and if any owner/user of such a software product were to solicit an endorsement from a high profile person it is inherent that the appropriate person sample data be collected in order to train/adapt/configure the software product to the person; accordingly it would have been obvious to one skilled in the art at the time of the invention that for any software product having an adaptation module that one would have to configure/adapt the software product using the adaptation module and the person sample data to the person regardless of the software products intended use (i.e. whether or not the software product is being used under "normal" circumstances or for promotional purposes).